



VIRGINIA CHILD SUPPORT GUIDELINE REVIEW PANEL: 2005

Senator Frederick M. Quayle, Chairman

Joseph S. Crane, DCSE representative & staff director

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MINUTES

July 11, 2005 meeting

Vault Level A&B, Department of Social Services Home Office

Richmond, Virginia

The following members were present: Senator Frederick Quayle; Delegate Michele McQuigg; Judge Anne Holton; Ms. Amy Atkinson; Richard Byrd, Esq.; Mr. Joseph Crane; Lawrence Diehl, Esq.; Mr. Robert Ingalls; Ms. Deborah Parham; Ms. Leslie Sorkhe.

The following members were absent: Delegate Clifford Athey; Delegate William Barlow; Judge Wilford Taylor; Mr. Brian Hawkins; Janipher Robinson, Esq.

Guests present: Nina Edidin, Esq., Georgia Department of Juvenile Justice; Laura Morgan, Family Law Consulting, and author of *Child Support Guidelines: Interpretation and Application*.

The third meeting of the Secretary's 2005 Child Support Guideline Review Panel was held on Monday, July 11, 2005 at 9:00am in Vault Level Rooms A&B of the Virginia Department of Social Services Home Office in Richmond, Virginia.

Chairman Frederick Quayle gavelled the meeting to order at 9:00am, requesting review of the previous meeting's (6/8/05) minutes.

A motion was made from the floor to accept the minutes, which were approved by voice vote.

Chairman Quayle introduced attorney Nina Edidin, previously with the Georgia Department of Law and now with the Georgia Department of Juvenile Justice, who in the former capacity was involved extensively in recent litigation surrounding Georgia's Child Support Guideline. Ms. Edidin provided a brief history of the Guideline as it has been changing in Georgia, noting that the Guideline currently remains in a state of flux as Georgia transitions from a percentage of NCP income approach to a model based on income shares similar to Virginia's. Though the law in Georgia has already changed to adopt an income shares approach, Georgia's old Guideline is still in

effect as the legislature plans to first study the cost of raising children in order to calculate an accurate and fair new Guideline. In closing, Ms. Edidin noted that no state has yet adopted a cost shares approach, and she advised against going to a cost shares model because the data surrounding such a model is faulty and there are too many variables that cannot be quantified.

Chairman Quayle next welcomed back Laura Morgan, who returned to answer additional questions and furnish additional insights into child support guidelines throughout the U.S. Ms. Morgan led the Panel in extensive discussions on such topics as: a self-support reserve, shared custody issues, Virginia's 90 day threshold, imputed income, and fixed vs. shifting/variable costs. Ms. Morgan's opinion of Virginia's current Guideline was that it is quite adequate, in the middle of the road compared to other jurisdictions, and that not much was needed to change it except, perhaps, some updating for inflation, a rewrite of the imputed income portion, and a review of deviation factors, which she felt could be clarified.

Chairman Quayle expressed deep appreciation to both Ms. Edidin and Ms. Morgan for traveling to Richmond to give the Panel their valuable time.

Delegate McQuigg expressed a desire to see a matrix of the main issues facing the Panel, outlining the pros and cons of various proposals in order to assist Panel members sift through the overwhelming amount of materials and statistics presented to date, so members might better focus on the actual voting issues the Panel will consider. Staff was requested to produce such a matrix for the Panel's review.

Judge Holton suggested the Panel prioritize the top five or so voting issues in order to enhance the Panel's chances for success in the General Assembly.

The chair recognized Mr. Diehl, who briefly rebutted Mr. Ingalls's 6/8/05 presentation to the Panel regarding the topic of shared custody. Mr. Diehl also stated that he fully agreed with Mr. Byrd's upcoming formal response to Mr. Ingalls's proposal [scheduled to come later this afternoon] and regretted that he would have to leave the meeting prior to that agenda item.

The chair next recognized Mr. Byrd, who expanded on his 6/8/05 presentation to the Panel regarding his proposal to adjust the current child support Guideline to more accurately reflect the impact of inflation. Mr. Byrd provided additional details and examples that painted a fuller picture of his proposal.

Following lunch, Chairman Quayle began the discussion phase of the meeting by posing the most basic question before the Panel: does the Panel wish to remain with income shares or move to something else? After brief discussion, it was noted there was no alternative proposal before the Panel.

Chairman Quayle sought a motion from the floor to remain with income shares, which was presented and seconded. The motion to remain with income shares was approved by voice vote.

Mr. Diehl made a motion for the Panel to allow Mr. Byrd to provide a complete sample Guideline

that reflects Mr. Byrd's proposal to adjust the current Guideline for inflation (i.e., a sample Guideline table that will be expanded to include the full numbers of children currently listed in the existing Guideline table). This motion generated some discussion to clarify the request.

Mr. Byrd then expanded on Mr. Diehl's motion and moved that the Panel conceptually agree to the need to adjust the current Guideline for inflation. Mr. Byrd clarified that his motion does not approve his own proposed updated Guideline, but only recognizes the conceptual need to adjust the existing Guideline. Approval of this motion, he stated, will allow him to develop and provide the Panel with a full prototype Guideline for the purposes of discussion.

Mr. Byrd's motion was seconded by Judge Holton. Mr. Byrd's motion for the Panel to conceptually agree to the need to adjust the current Guideline for inflation was approved by a vote of eight "yes," to two "no." Based on this approval, Mr. Byrd will develop for Panel discussion a full prototype Guideline that adjusts for inflation.

Judge Holton, during the deliberations on Mr. Byrd's motion, suggested separate discussion concerning whether any new Guideline numbers could be adjusted to recognize either shared custody issues along the lines of Mr. Ingalls's concerns, or any other circumstances that may require adjustment for any updated numbers.

Per Judge Holton's suggestion, Chairman Quayle asked Panel members what other measures might be addressed.

Mr. Byrd suggested a self-support reserve be considered, though it was recognized there is currently no proposal regarding this issue. Mr. Byrd offered to work with the Panel's support staff to draft proposals for establishing a self-support reserve that applies to, and takes into account the income of, both the custodial and noncustodial parent.

Mr. Byrd's suggestion was seconded by Delegate McQuigg and Judge Holton. The recommendation to have staff draft proposals for a self-support reserve was approved by voice vote.

Delegate McQuigg suggested deviation factors as another area to consider, citing the need to review Virginia's existing language regarding this issue. It was generally acknowledged that some deviations are redundant since they are built into the current Guideline, and that the writing could be cleaned up to clarify this area of the Guideline.

Delegate McQuigg also suggested the issue of charging interest on delinquent accounts for incarcerated noncustodial parents be reviewed. Mr. Byrd, Laura Morgan and staff will research this issue for future meetings, and staff will retrieve an old piece of proposed legislation regarding this issue for the Panel's review.

As previously mentioned [per Judge Holton, et al], shared custody issues were cited as another measure to review.

The shared custody issue prompted additional discussion, and Mr. Byrd followed this with a detailed

response to Mr. Ingalls's 6/8/05 presentation on the subject.

Mr. Ingalls responded to Mr. Byrd's viewpoint by distributing a handout for Panel review.

The competing presentations were followed by debate among Panel members of the pros and cons of Mr. Ingalls's proposal relative to the status quo of the current Guideline. Perhaps the major concern was the ease of administration of the current system vs. the practicality of administering Mr. Ingalls's proposal. Is there a way to adjust the Guideline to accommodate some of Mr. Ingalls's proposals without creating administrative difficulties for both DCSE and the J&DR courts?

Following debate, Mr. Byrd moved to reject Mr. Ingalls's proposal in its present form.

Ms. Sorkhe seconded.

The proposal to reject Mr. Ingalls's proposal in its present form was passed by a vote of nine "yes" to one "no."

Hearing no additional measures for the Panel to consider, and having no other business before the Panel, Chairman Quayle declared the meeting adjourned at approximately 3:30 p.m.

Minutes approved, as corrected, by Panel vote on August 9, 2005 (for corrected language, see page 3, last full paragraph, underlined words).

A handwritten signature in black ink, appearing to read "Joseph S. Crane". The signature is written in a cursive, flowing style.

Joseph S. Crane
DCSE Staff Director